

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KENNETH ALFRED LINVILLE, JR.,

Petitioner,

V.

STATE WASHINGTON.

Respondent.

CASE NO. 3:24-CV-5357-KKE-DWC

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge David W. Christel, Mr. Linville's objections to the Report and Recommendation, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation (Dkt. No. 5). Although Mr. Linville objects to the Report and Recommendation on the grounds that his habeas petition is not successive and that he is entitled to a certificate of appealability, he has not established error in Judge Christel's findings to the contrary. *See* Dkt. No. 6.
- (2) Mr. Linville's federal habeas Petition is dismissed without prejudice.
- (3) A certificate of appealability is denied in this case.

1 (4) The Clerk is directed to send copies of this order to Mr. Linville and to the Hon.
2 David W. Christel.

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4 **DATED** this 3rd day of September, 2024.
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10 Kymberly K. Evanson
11 United States District Judge
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